SECTION I

The Law

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Special Education Law: A New IDEA for Students Who Are Deaf or Hard of Hearing

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A deaf or hard of hearing child is, to some degree, without hearing. And yet the term "disabled" may be a misnomer. That same child is fully capable of developing language—spoken or manual—and becoming a complete person. A communication difference is not the same as a communication disability.

—Lawrence Siegel, J.D.

Deafness is a sensory difference. It only becomes a "disability" when the educational system fails the child and family.

—Christine Yoshinaga-Itano, Ph.D.

A child who is deaf or hard of hearing presents a paradoxical challenge to the American educational system. On the one hand, the child has a disability, clinically speaking. On the other hand, the child is completely *able* to accomplish the goals of education, while accessing communication differently than hearing students. In an environment of equal communication access, the concept of disability simply may not apply to students who are deaf and hard of hearing.

However, our American educational system is founded on *disability* as a qualifying condition. It is a deficits-based model programmed to react when the student digresses or fails in a way that can be tracked unquestionably to his or her "disabling" condition (U.S. Department of Education, 2002). Once this deficit has been established, the system goes about trying to accommodate for it through the mandate of special education. Statistically speaking, that system has failed to serve the unique needs of students who are deaf or hard of hearing. According to nationally standardized test (SAT) results, the deaf or hard of hearing student population graduates with an average grade-equivalent performance of 3.9 for reading comprehension, 5.0 for math problem solving, 4.5 for language, and 6.0 for spelling (Bloomquist Traxler, 2000).

Perpetuating Disability

Students who are able to overcome the negative impacts of their disability within a system that perpetuates failure may find themselves rewarded for their grade-appropriate academic outcomes by being booted off the special education caseload as no longer eligible. Ironically, these students may have to regress or fail to earn back the services that supported their achievement, and the cycle continues in its absurdity.

Nowhere is this dysfunction more apparent than in the case of babies whose deafness or hearing loss was identified at birth. With the advent of early identification and effective intervention, significant language delays and related problems associated with late identification of hearing loss have been virtually eliminated. The children who have

In: Roeser RJ, Downs MP, Auditory Disorders in School Children, 4th Edition. New York, Thieme Medical Publishers, 2004. pp. 9-24

benefited from good early intervention arrive at the threshold of public education, usually at age 3, showing no deficits due to hearing loss. Their language and development is age-appropriate (Yoshinaga-Itano, Coulter, & Thomson, 2000). These are the very children who may be turned away from the doors of special education—and the supports that they need to maintain their accomplishment—because their early success disqualifies them from eligibility for services. Based on the special education eligibility criteria in many states, these children will need to regress before the educational system will consider them qualified for support.

Starting from the Beginning

The Individuals with Disabilities Education Act (IDEA) was passed in the mid-1970s (originally called the Educating All Handicapped Children Act) mandating programs of special education (i.e., specially designed instruction for students with disabilities) in public schools. According to IDEA, the purpose of special education was, and is, to "ensure that all children with disabilities have available to them a free and appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living." Students with special needs were eligible starting at age 3 through high school graduation under Part B of the law. (Part C of IDEA, which came into law in the late 1980s, covers special needs entitlements for the birth to age 3 population, also known as Early Intervention.)

Eligibility requirements as defined by IDEA essentially dictated that the student (1) had to have a disability, and (2) had to *need* specialized instruction. The need for specialized instruction was directly related to the student's deficits resulting from his or her disability. The determination of what that specialized instruction should look like was to be made by special education teachers, the student's parents or guardians, and others who would be working directly with the student (e.g., speech-language pathologists, occupational therapists, parents, psychologists, interpreters, general educators, counselors, and other applicable representatives). This group would function as a team to create a document called the Individual Education Program (IEP), which sets forth the academic goals and objectives for students, based on their unique, individual needs.

Time for Change

Surely the earlier-mentioned success-equals-failure dynamic was never the intention of special education law. Although this shortsighted treatment (failure-perpetuation is only one of many examples) of deaf or hard of hearing students still operates at some level in all school districts across the nation, some important changes to IDEA have been incorporated into law. The act now requires IEP teams to address "special considerations" in order to meet the unique communication needs of students who are deaf or hard of hearing. Although we still have a long way to go, "special considerations" is a groundbreaking achievement for students who are deaf or hard of hearing. We have indeed come a long way already.

IDEA's Impact

IDEA enabled many students who were deaf or hard of hearing to attend the school in their own area, rather than board at the state's residence school for the deaf, which, prior to enactment of the law, had been a traditional placement for many deaf students. Beyond that, there was no obligation for public schools to accept students with disabilities who were considered to be "uneducable," or too difficult to educate. Their right to receive a "free and appropriate public education" (FAPE) was now an IDEA entitlement at whatever public school they would normally attend, based on where they lived. However, local education agencies (school districts) often found themselves unprepared for the special needs of this popula-

tion. There was "not widespread understanding of the educational implications of deafness, even among special educators" (Deaf Students Education Services Policy Guidance Report, 1992). Further, given the low incidence of deafness, there wasn't always a critical mass of students to justify the existence of a program and staff with expertise in deafness or hearing loss. The solution for many school districts was to place deaf students in special education classrooms where other special needs (to use a term from those days, "retarded") children were taught. Academic expectations in many of these "self-contained" settings were homogenized and typically set so even the lowest achiever could accomplish them. Further complicated by a system that perpetuated failure, for deaf and hard-of-hearing students with normal cognitive abilities, this dynamic set in motion a trend of underachievement that has not been successfully reversed, statistically speaking, even today.

The Inclusion Movement

The spirit and the letter of the IDEA did not support the practice of segregating students with special needs exclusively into self-contained classrooms, but the practice was so common that many parents, advocacy groups, and even some philosophically aligned professionals protested vehemently. The call for "inclusion" of disabled students into general education classrooms was a powerful movement that swept the nation in the 1990s and was founded on the IDEA provision that "to the maximum extent appropriate, children with disabilities . . . are educated with children who are non-disabled . . . as close as possible to the child's home . . . in the school that he or she would attend if non-disabled" (IDEA Sec. 300.552 (b) (3) & (c)). This placement is considered the "least restrictive environment" (LRE) for students with special needs, but in fact, for many students who were deaf or hard of hearing, it created an environment of extreme isolation with no direct communication access to teachers or peers.

The Communication Conundrum

In 1992, the U.S. Department of Education's Office of Special Education Programs (OSEP) published the Deaf Students Education Services Policy Guidance Report in response to an earlier report by the now defunct Commission on Education of the Deaf. This program was concerned over the provision of FAPE for students who were deaf who had "significant obstacles to overcome in order to have access to FAPE, particularly with regard to communication access" (OSEP, 1992, p. 49274). The Deaf Students Policy Guidance Report intended to give direction to state and local education agencies on FAPE for students who were deaf or hard of hearing. It called for the consideration of certain factors in the development of an IEP for any student who was deaf, including:

1. Communication needs and the child's and family's preferred mode of communication
2. Linguistic needs
3. Severity of hearing loss and potential for using residual hearing
4. Academic level
5. Social, emotional, and cultural needs, including opportunities for peer interactions and communication

The Deaf Students Policy Guidance Report additionally recommended that children's needs be identified by professionals who are knowledgeable about the specific factors presented by the "nature and severity" of their deafness relative to the content and method of delivery of the curriculum. This reference pointed to the necessity of having educators who have expertise in deafness directly involved in the educational planning for students who are deaf or hard of hearing—a responsibility that was and is often left to professionals with no background in deafness or hearing loss.

A main thrust of the Deaf Students Policy Guidance report was that meeting the unique communication and related needs of a deaf student was fundamental to that indi-

vidual's free and appropriate public education. It stated that:

> Any setting, including a regular classroom, that prevents a child who is deaf from receiving an appropriate education that meets his or her needs, including communication needs, is not the LRE for that child. Placement decisions must be based on the child's IEP. Thus the consideration of LRE as a part of the placement decision must always be in the context of LRE in which appropriate services can be provided. Any setting which does not meet the communication and related needs of a child who is deaf, and therefore does not allow for the provision of FAPE, cannot be considered the LRE for that child. The provision of FAPE is paramount, and the individual placement determination about LRE is to be considered within the context of FAPE. (p. 49274)

The report contended that some public agencies had "misapplied the LRE provision by presuming that placements in or closer to the regular classroom are required for children who are deaf" without considering the communication needs of the student. That said, the report also acknowledged that general education settings are appropriate and adaptable to meet the unique needs of particular deaf students, and that a continuum of placement options must be maintained, and that all placement decisions must be based on the IEP, with an emphasis on *individual* needs.

Incorporating New Policies

The 1992 Deaf Students Policy Guidance report evolved through the Deaf Education Initiative Project, composed of a task force of professionals from all arenas in deaf education, advocacy, and the deaf community. Under the direction of Dr. Robert Davila, former assistant secretary of education for the Office of Special Education and Rehabilitative Services, the Deaf and Hard of Hearing Students Educational Service Guidelines were published in 1994 for the National Association of State Directors of Education (NASDE) (Baker-Hawkins & Easterbrooks, 1994). Exhaustive, comprehensive, and communication-focused, this document became the definitive resource and reference on deaf education, from audiology to American Sign Language (ASL), to deaf cultural concepts to cued speech. It was distributed nationally, and remains a powerful source of still-practical, meaningful information specific to this population.

From Policies to Mandates

When IDEA was reauthorized in 1997, for the first time it included specific language that acknowledged the need for special considerations in the case of students who were deaf or hard of hearing (IDEA Sec. 300–346 (a) (2) (iv–v)). This was the result of active lobbying based on the Policy Guidelines (OSEP, 1992), and from that document came these new requirements. The 1997 reauthorization of the IDEA stated that:

> Sec.300.346 Development, review and revision of IEP.
>
> (a)(2) Consideration of special factors.
>
> The IEP team shall also . . .
>
> (iv) Consider the communication needs of the child, and in the case of the child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and
>
> (v) Consider whether the child requires assistive technology devices and services.

The challenge that this new language poses to parents, schools, and IEP teams is to apply its intention productively and practically to the day-to-day experience of deaf or hard of hearing students in school. How does the IEP team move past the theoretical consideration of these special factors and into a plan of action? This "consideration of special factors" can be broken into five main components:

1. Language and communication needs

2. Opportunities for direct communication with peers and professionals
3. Academic level
4. Full range of needs
5. Direct instruction in the student's communication mode or language

In addition to these five components, the use of assistive technology and services must also be addressed (IDEA Sec. 300.346 (a) (2) (v)).

1. Language and Communication Needs

Communication is at the heart of the matter when developing an individualized education program for a child who is deaf or hard of hearing. The team (including parents) must be fully aware of how the student is accessing communication in the environment and how that access may by necessity change. It may look different for the student with a cochlear implant than it does for the student using ASL. It may look different in a small classroom than during an assembly in the auditorium. It will look different when hearing aids or cochlear implants are removed to play certain sports. The point is that it does and will change or need adaptations, and the IEP team needs to consider that in the context of the student's communication mode or language. This is a different approach than the historical practice of placing a priority on the "method" of communication, rather than on the needs of children to fully access the communication in their world. The "child-centered" approach is essential to creating educational programming that is at the core driven by the right to access communication.

Possible issues considered based on the individual child include:

- Is there just one communication mode? More than one? Combinations of methods?
- How do the parents communicate with the child?
- How does the child communicate outside of school or with friends?
- How does the student access inferential learning?
- How have we objectively measured this student's ability to access information in his or her preferred mode of communication?
- How does this student access information in noise?
- How does this student access information in a room with poor acoustics?
- What type of technology does this student use? Hearing aid? FM system? cochlear implant? teletypewriter (TTY)? note-taking systems? real time captioning?
- What is the back-up plan when communication breaks down?
- Is the student's skill level in the chosen mode(s) of communication adequate for grade-level achievement?
- How can we assess his or her sign language or oral skill level?
- What kind of interpreter does this student need? Oral? ASL? Signed Exact English (SEE)? other?
- How can we assess functional hearing (beyond the audiogram)?
- How are tests administered in the classroom? Orally? In writing?
- Have we taken into consideration the "fatigue factor"?

Depending on the discussion, the IEP team may need to develop an action plan that addresses these special considerations based on the needs and modes of the individual student. It could include:

- Use of an educational sign language interpreter or teacher fluent with signing during instruction
- Parent training in sign language, auditory training, or both
- Acoustical adaptations to the environment
- Functional hearing test (link to www.handsandvoices.org/articles/education/ed/func_listening_eval.html)
- Classroom captioning
- Buddy system
- Use of FM system, personal or sound field system, hearing aids
- Adding sign or spoken language goals and objectives for the student
- Closed captioning on all television sets; captions for all movies to be shown

- Announcements given over the public address system also delivered or posted in writing
- Testing accommodations (e.g., extra time, no oral tests)
- Down time/break time
- Specialized seating arrangements
- Enhanced speech reading capabilities (no hands or projection equipment in front of the face, good lighting on the face, well-trimmed facial hair, no gum chewing)
- Other applicable ideas

Case Study 2–1: Unique Communication Needs C.H. is 10 years old and has a mild/moderate hearing loss. She speaks well and is a good user of amplification. She is at her neighborhood school and is the only student with a hearing loss. People often remark that they would never know she has a hearing loss, her speech is "so good." But C.H. has had a hard time making friends and seems to be lagging behind in science. She was also reprimanded recently during PE for not following the rules. She sometimes fails to turn in homework assignments.

C.H. primarily uses her auditory ability to access information. However, she also lipreads when she misses something. Unfortunately, her science teacher has a beard and tends to mumble. At lunchtime in the cafeteria, the acoustics are so poor that she misses out on a lot of the conversation that is going on around her at the table with her classmates. They wonder sometimes why she ignores them. Although she has an FM system that helps tremendously in noisy situations, the PE teacher has refused to wear it because she is afraid that it could be damaged in class, and besides, "PE is so physical and visual" she is sure that C.H. will just "catch on" to what's going on in class. The teacher announces the homework assignments at the end of the day but rarely writes the assignments down on the chalkboard.

IEP Action Plan: The IEP team must ensure that every teacher who comes in contact with Cheryl throughout the day uses and understands the need for the FM system. The "specials" teachers (PE, art, music, science labs, etc.) need to wear the FM system to reduce the impact of background noise. They need to understand that they must enunciate clearly, face the student, and use as many visuals, overheads, and supplemental written materials as possible to reinforce the "auditory input."

C.H. needs an opportunity to connect with other kids in a one-on-one environment. The kids should be shown how to get her attention before they talk to her (i.e., facing toward her, tapping on the shoulder). During class time when kids are in small group, they can pass the FM around so that the students get used to using the microphone. They can try the FM during lunchtime in the cafeteria. The teacher should write the homework assignment on the board every day and then check to make sure C.H. has written it down correctly.

2. Opportunities for Direct Communication with Peers and Professional Personnel

For many students who are deaf and hard of hearing, communication challenges can create isolation and loneliness—even in a room full of kids. The opportunity to communicate with and have meaningful relationships with other peers—be they hearing, deaf, or hard of hearing—must be considered in the development of the IEP. Morever, communicating directly with professional personnel, including teachers and interpreters, must be given special consideration.

For students who are placed at a center-based program or at the state school for the deaf, there may be natural opportunities for

the student to directly connect with other students and professionals who use the same mode of communication. For students who are in a mainstream setting, there should be a discussion about how to effectively facilitate peer and professional interaction, regardless of the mode of communication used by the student (signed or spoken). Peers of like communication mode must be defined on a case-by-case basis. For example, a deaf child with a cochlear implant to develop speaking and listening skills may benefit from direct communication with typically oral communicating kids, either hearing or deaf. A native user of ASL must have opportunities to communicate with peers and professionals in that language. This is particularly important for young children who do not understand how to appropriately use an interpreter in the classroom and who may misunderstand the role of interpreter versus teacher.

Possible issues that should be considered based on the individual child include:

- Is the student in a mainstream or center-based/state school setting?
- Is the student in a rural or urban setting?
- Who are the student's current peers? (hearing kids? deaf or hard of hearing oral children? cueing children? deaf or hard of hearing signing children?)
- Does the student have access to peers in the same grade or age range?
- Do opportunities within the school district/region or state exist?
- Is there a deaf community in the student's geographical location?
- Does the student have access to the Internet to create friendships?
- Is there a deaf or hard of hearing adult role model program in the state?
- What are the parent's values about the child's participation in deaf or hard of hearing peer group activities?
- What are the student's values around being included with other deaf or hard of hearing students?
- If the student's peers include hearing kids, do those hearing peers know and understand sign language? or if oral, how to communicate effectively?
- How proficient is the professional(s) in the child's communication mode or language? Who is qualified to evaluate staff proficiency and/or qualifications?
- Are the qualifications of the staff serving the student linked to the child's individual needs (i.e., cochlear implant expertise, experience with student's age/grade level, etc.)?

Depending on the discussion, the IEP team may want to develop specific goals based on the consideration given to direct communication with peers and professionals and on the needs/modes of the individual student. These goals could be directly linked to academic achievement, or listed under "Related Services." Some examples include:

- Becoming an online (e-pen) pal with another student who's deaf or hard of hearing
- Developing special curricula that explore the contributions to society by individuals who are deaf or hard of hearing
- Identifying a section in the school library with resources on deaf issues, books written by deaf or hard of hearing authors, fiction that has deaf or hard of hearing heroines, and the like
- Offering sign language classes for the student body at the school
- Connecting to a state role model program, if available
- Networking mainstreamed students to center-based or state deaf residence schools for opportunities to gather socially
- Hooking up with local deaf community organizations (National Association of the Deaf, Self Help for Hard of Hearing)
- Adding information and projects about deafness (e.g., science fair projects that have to do with deafness, films about Helen Keller and others) to the general education curriculum
- Creating district/regional opportunities for deaf or hard of hearing kids to be together (e.g., track and field day, baseball camp, leadership trip to Washington, D.C., etc.)

Case Study 2–2: Direct Communication J.S. is a sophomore in high school in a rural community. He is one of six students in his school district who is deaf or hard of hearing. However, he is the only one at the high school level. J.S. uses sign language primarily, and has an interpreter for his classes. His teacher doesn't call on him in class very often because she has trouble understanding his "deaf speech" and finds it distracting and disruptive to have an interpreter voice J.S.'s answers for him. J.S. doesn't raise his hand often because he's self-conscious about his speech intelligibility, and believes his teacher doesn't call on him because she doesn't like him or think he's smart enough to answer a question.

J.S. loves computers and baseball, but he's ambivalent about joining the baseball team. His interpreter leaves school promptly after the last class every day, so J.S. is worried that if he tries out for the baseball team, he won't be able to understand what the coach is saying. He hates his foreign language class and is having a hard time getting a C. He has two very close friends, both of whom are hearing. His parents are afraid if he hangs out with other deaf people, he might not learn to make it in the "hearing world." J.S. wishes he knew more deaf or hard of hearing kids with whom he could communicate less self-consciously.

J.S. lives in a rural community, but there is a small but active deaf community in the town 15 miles from where he lives. J.S.'s family has never had the opportunity to meet them. J.S. is a good lip-reader, but he really likes to just hang out with a couple of friends because when the group gets too big, the conversation moves too fast. His friends are very willing to learn sign language, but there aren't any classes available in their area.

IEP Action Plan: The IEP team, including J.S.'s parents, needs to include J.S. at the meeting and have a conversation about his peers. Does he want to meet other deaf or hard of hearing students? Are there really no other high school students within 50 miles of where J.S. lives who are deaf or hard of hearing? In fact, the state school for the deaf has an e-mail Listserv for all the students there. J.S. can access that on his computer at home to begin a relationship with other deaf or hard of hearing high school students. There is a leadership camp for high schoolers that are deaf or hard of hearing in the summer that Joe can attend. The school librarian can get a catalog from Gallaudet University with books that are available about contributions by deaf or hard of hearing adults. The team must understand that the law provides for access to school-sponsored activities, so J.S. can go out for the baseball team knowing that an interpreter must be provided. J.S. will have an opportunity to make new friends by being on the team. The local college has an ASL class that J.S. can take to fulfill his credit for a foreign language. His two close friends can take the class with him. Someone knows of a 22-year-old CODA (hearing child of deaf adult) who lives just 15 miles away and can introduce J.S. and his parents to some of the members of the deaf community in the area.

J.S.'s general education teacher needs some sensitivity training and awareness to be better prepared to communicate directly with him. The team writes goals into his IEP that include an increasing number of direct communications each week between her and J.S. They determine what subject must be discussed routinely (e.g., daily journal writing) and set specific times each week to meet one-on-one.

- Having a high school sports team from the state school for the deaf travel and do a presentation/exhibition for a mainstreamed students' high school
- Creating training goals and mentoring relationships for the mainstream staff to gain proficiency, if needed, in the student's communication mode or language
- Setting a goal for the student to communicate directly with the classroom teacher when asking or answering a question in class rather than defaulting to communicating through an interpreter

3. Academic Level

A deaf or hard of hearing student's academic level must be given special consideration, particularly if it is below expectations for standard grade-level achievement. Any discussion of the impact of the student's deafness or hearing loss on academic performance will demonstrate the interrelatedness of each "special consideration." In the case of the student who is below grade level academically, consider the following:

- Is it due to language delays resulting from late identification?
- How accessible is the classroom communication?
- Has communication inaccessibility created learning deficits that have been compounded year after year?
- Is the underachievement a reflection of the staff's lack of proficiency in the child's communication mode or language?
- What does it say about how the child's educational program is supported outside the classroom and at home?
- How effective are the parents in their role as "case managers" and advocates for their child?
- Does the student have peers to communicate with directly? Or is the student isolated and depressed, and, if so, is academic performance being affected?
- What is the student's emotional state? Stress level?
- Is the acoustical environment causing too much noise interference?
- Are there other learning differences or secondary conditions to consider?
- Is the student's communication mode effective in providing the best access to instructional information?
- Does the student need assistive technology to better access communication at school? At home?
- Is it appropriate to keep a seventh-grade deaf or hard of hearing student with a 2-year language delay in the fifth grade?
- Is the curriculum being taught to the deaf or hard of hearing student the same as it is taught to hearing students? (This is particularly problematic for students who are not mainstreamed.)

The IEP Action Plan: Consideration given to academic performance level is critical. It motivates the relationship between IEP goals and grade-level, standards-based benchmarks through the general curriculum. Those goals must be

- Measurable and objective; nonsubjective
- Not based solely on "teacher observation"
- Tied to the general curriculum of same-aged hearing peers
- Driven by communication access, based on the student's mode
- Formulated for appropriate grade-level achievement
- Designed to "place" the student in the optimal learning environment
- Remedial as necessary, without compromising the student's in-class, instructional time with pull-out time
- Reflective of collaboration strategies between the special education providers and the general education teachers
- Supported with best practice strategies like preteach, teach, and reteach methods

Academic level is also an important consideration relative to program placement of the student. Is the child best served at the state's residence school for the deaf? Is a center-based program in the school district the

setting most appropriate for the child's needs? Or will the team decide that the student can be placed in the neighborhood school? What are the parent's goals for the child relative to placement? Placement of the student raises many challenging issues in the case of students who are deaf or hard of hearing, and the student's personality and natural inclinations must be a priority consideration. Placement is further discussed later in this chapter under Least Restrictive Environment versus Language Rich Environment.

4. Full Range of Needs

All students experience life at school both academically and socially. Many deaf or hard of hearing students communicate differently than hearing kids or teachers, and often those differences create communication barriers that stymie fluid, fluent exchange. We work diligently through IEPs to ensure communication access to academic information, but what about social information?

Often deaf or hard of hearing kids miss out on important news conveyed through inferential, or passive, learning—the things we pick up by simply overhearing a conversation, announcement, or exchange that may not have been intentionally directed at us. Whether that exchange was between Mom and Dad discussing a new job offer, a teacher scolding a student for disrespectful behavior, or classmates who are all planning to wear red and white to the football game on Friday, there's a lot to be learned by knowing what's being said around us. Passive learning is a normal and requisite process in which humans learn acceptable social behavior.

The deaf or hard of hearing child who doesn't hear his or her peers changing the rules to the game they're playing at recess is out of step and may be seen as misbehaving for not following the rules. Someone tells a teacher. The teacher notes that this is the fourth complaint this month, and this must be communicated to the principal. The child is not perceived as a team player, or may be seen as mentally impaired, especially if the speaking voice sounds different or if the child uses a lot of hand gestures. All too often the result is avoidance by peers. The child's self-confidence and motivation to attend school plummet. Any sense or expression of injustice is misunderstood and dismissed by others, and the principal perceives the child as a behavior problem.

Most gaps in the social learning experience for many students who are deaf or hard of hearing can be directly traced to a lack of exposure to inferential knowledge and passive learning. To consider the deaf or hard of hearing student's *full range of needs* is to ensure that there are strategies to ensure opportunities for social learning and self-esteem building. Beyond a strictly academic agenda, the IEP team's considerations should include but are not limited to the following:

- Does the student have friends at school?
- Is the student involved in extracurricular activities?
- Is there good communication access at school-sponsored extracurricular activities?
- How can we make sure that the student knows not only what the teacher is saying but also what questions the other students are asking?
- Is the child benefiting adequately from the communication mode or language he or she is using?
- Is the child showing signs of emotional stress or depression?
- Is the home life healthy and supportive?
- Is the student experiencing the same rewards and consequences of his or her actions as everyone else?
- Can a class project be created that will highlight the student's abilities?
- Can the student council reserve a seat for a student who is deaf or hard of hearing?

Full range of needs encompasses academic and social needs, and all the things related to supporting them that sometimes are overlooked in the typical IEP meeting:

- Communication access in art, music, physical education class, athletics (sports

teams), hallways, playground, cafeteria, school office
- Counseling and health services
- Special interest groups or after school clubs
- Telephone, TTY access at school
- School assemblies
- Field trips
- Transportation staff
- Janitorial, school cafeteria staff

Depending on the discussion, the IEP action plan could call for the following:

- Words of music written down for choir
- Use of visual supplements
- Interpreters for field trips
- Bus drivers who sign
- Captioning on all movies
- TTY
- Blinking light for alarms/bells
- Carpeting in hallways
- Buddy system for the playground
- FM system hooked up to sound systems during assemblies
- Outdoor education trip, interpreter? FM system?
- Video monitors with schoolwide news and announcements captioned or interpreted "on air" and/or posted announcements
- Pager systems
- Take home FM system to support the IEP agenda at home

5. Direct Instruction in the Student's Communication Mode or Language

The values inherent in IDEA's directives about a deaf or hard of hearing student's full range of needs are also represented in its requirement to consider opportunities for direct instruction in the child's language and communication mode. For the same reasons that we recognize the value of direct communication with peers and professionals (see no. 2 of this section), we must also acknowledge the value of direct instruction.

Direct instruction means that a deaf child using ASL, for example, is taught by his or her teacher directly in ASL. There is no intervention from an interpreter or paraprofessional. When a child receives or expresses

Case Study 2–3: Direct Instruction J.M. is 4 years old and is in a center-based preschool program for children with special needs. She has a severe/ profound hearing loss and gets good benefit from wearing two hearing aids. There are three other children with different degrees of hearing loss, and several children in the class with other "special needs," including two children who have autism. The program philosophy is to offer the SEE signing system.

Consider the opportunities for direct instruction in J.M.'s language and communication mode. Her parents are deaf, and she is at age-level language skills in ASL. J.M. is able to have some auditory function as well. Her parents are concerned that she be given the opportunity to use her native language, maintaining her family's value of deaf culture and community. J.M. has begun to learn to read at a very young age.

IEP Action Plan: What can the IEP team do to create opportunities for J.M. for direct instruction in her primary mode of communication? Because the center program uses SEE sign language, but J.M.'s sign system is ASL, the team must accommodate her language. In a neighboring school district, a charter school offers teachers who use ASL in direct instruction to students. J.M.'s team believes that would be the best placement for her, given that they cannot accommodate ASL within their own program. J.M. will have an opportunity to be with other children who use ASL. With transportation provided by her home school district, J.M. begins attending the ASL charter school, and her parents become an important resource for the deaf culture and community program there.

communication directly with a teacher in his or her own communication mode or method, the relationship between them is more natural, personalized, and productive. Both teacher and student invest more of themselves in the teaching/learning dynamic and its outcome. Both benefit from a greater understanding of each other's style and expectations. And there is no chance that the teaching is compromised by the intervention of an interpreter who may substitute vocabulary, or lack knowledge of the subject and unintentionally misrepresent it to the student. Direct communication has the highest potential for mutual comprehension and fewer misunderstandings, so its importance in a teacher/student interaction cannot be underestimated.

Least Restrictive Environment versus Language Rich Environment

The considerations for both full range of needs and direction instruction in the child's mode or language are significantly impacted by the legal issue of LRE from literal and theoretical perspectives.

IDEA requirements for LRE placement start with the assumption that the student should attend the school that he or she would normally attend if nondisabled (IDEA Sec. 300.550–551), with the greatest degree of exposure to "typical" peers. But case law expands the understanding of LRE as a physical place to LRE as a concept. In this context, LRE is a setting in which students will experience the LRE based on their individual needs. This issue is critical to deaf or hard of hearing students.

When both sections of the law—LRE and special consideration of students who are deaf or hard of hearing—are taken into account, the IEP team needs to be very clear about which setting will provide the most conducive atmosphere to communication access. Depending on the political climate where you live, the push for a "full inclusion" model may be strong or weak. In other words, if one part of the law is given more weight than another (LRE over special considerations for deaf or hard of hearing), the placement issue of the student may not be in his or her individual best interests. IDEA Sec. 300.552(a) states that the placement decision is made by a group of persons, including the parents and other persons knowledgeable about the child, along with evaluation data and the placement options. Possible issues considered based on the individual needs of the student could include:

- What sort of placement would be ideal?
- Does the school district have a center-based program for deaf or hard of hearing students? What modes of communication does the center-based program accommodate?
- Where is the state school for the deaf? What is the school's philosophy? Is it in writing?
- What kind of services would need to be implemented for the student to attend a "home/neighborhood" school? What kind of itinerant services are available?
- What kinds of programs are available in neighboring school districts?
- How much opportunity will there be for the student to communicate directly with peers and professionals in his or her communication mode or language?

Depending on the discussion, the IEP action plan based on the needs/modes of communication of the individual student could include:

- Student placement outside the school district into another program
- Revision or creation of a new program within the district
- Family relocation to another town (this happens!)
- Open enrollment
- Itinerant services in home/neighborhood school
- Center-based program that fits the communication needs of the student
- Continuum of alternative placements Sec. 300.551 (regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions)

Case Study 2–4: Least Restrictive Environment L.R. is 7 years old and received a cochlear implant 3 years ago. She lives with her family in the suburbs of a fairly large city. She has been placed in her school district's center-based program that has a total communication (TC) model (personnel both sign and speak during the academic day). In the past, L.R.'s family used some sign language with her, but her oral skills have progressed to a point where she rarely uses sign language for expressive or receptive input. Her parents feel very strongly that L.R. needs strong spoken language models during her day. She has very strong auditory skills and is not fluent in sign language. The teachers at the TC program have not had experience with children who use cochlear implants, and they strongly believe all children should use sign language. L.R. loves math and science and learns best with a hands-on approach. She has made friends at her center-based program but doesn't have any friends in her own neighborhood.

L.R. was placed appropriately in the center-based program at the age of 4, but now at the age of 7 her needs have changed. The school district is not large enough to provide a distinct "oral" program option, so they have tried to meet the needs of all deaf or hard of hearing kids in one center-based program. There are very few kids out in the "mainstream" in that district. The speech therapist in the TC program has never worked with a child with a cochlear implant and has decided to "treat her like a child with a hearing aid." L.R.'s parents feel she's ready to be moved back to her neighborhood school and be fully mainstreamed with intinerant support from an educator who has training in deaf education and cochlear implant habilitation. The special education director recently learned that there is a program in the neighboring district that serves four children with cochlear implants and has a national grant to model support for students with cochlear implants.

IEP Action Plan: The team reviews L.R.'s IEP and agrees that their program may no longer be the best placement for her. Her parents believe that the center-based program is placing restrictions on her potential with the cochlear implant. L.R.'s mode of communication has changed over the last few years, and so her needs have changed too. The team agrees with the parents that L.R. should return to her neighborhood school for exposure to listening and speaking peers and staff. But the professionals working with L.R. need to have some skills, expertise, and experience working with kids who have cochlear implants. Because their school personnel have no expertise with cochlear implants, the special education director from L.R.'s school district contacts the neighboring district's cochlear implant staff. They begin to collaborate on a plan that creates ongoing mentor-training and in-service for the itinerant teacher who will be serving L.R. at her home school. Their collaboration includes work with L.R.'s new general classroom teacher who must understand and implement accommodations appropriate for this new student with a cochlear implant.

- State school for the deaf
- Information on other programs in the nation

Assistive Technology Devices and Services

In addition to the communication considerations for the student who is deaf or hard of hearing under the special considerations section of the law, there is an additional component regarding the student's need for assistive technology devices and services. As defined by law:

> (1) the term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to

> increase, maintain, or improve functional capabilities of a child with a disability. (2) the term "assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes; (A) the evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment; (B) purchasing, leasing, or otherwise providing the acquisition of assistive technology devises by such child; (C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devises; (D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs; (E) training or technical assistance for such child, or, where appropriate, the family of such child; and (F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of such child. (20 U.S.C. 1401)

In today's world, now more than ever, technology allows people with disabilities to be more independent. As technology has advanced for all of society, so has the technology that specifically benefits students who are deaf and hard of hearing. For many students, the use of assistive technology devices and services is a vital element for achieving FAPE.

Assistive Technology Devices

Hearing aids, personal and classroom sound field FM systems, TTYs, closed-captioned TV sets, alerting devices (flashing alarms) and other assistive technology, and acoustical modifications must be considered by the IEP team. It should be noted that the audiologist along with the IEP team should determine which type of assistive listening device, if any, is most appropriate to meet the educational needs of the individual student. Parents can provide input into the decision but cannot demand a specific brand or type of equipment. However, there's a principle in law which basically recognizes that there is diversity in what communication accommodation will work best for each individual. Therefore, when an individual (in this case the family) requests a particular assistive technology device or service, a public entity "must honor the choice, unless it can demonstrate that another equally effective means of communication is available, or that use of the means chosen would result in a fundamental alteration in the service, program . . . " (Americans with Disabilities Act, 28 CSR Sec. 35.160 (B) (2))

Case Study 2–5: Assistive Technology, Devices, and Services V.S. is a student with mild/moderate hearing loss. Her school is next to a busy highway. The heating system is over 20 years old and makes a lot of noise. A functional listening evaluation has shown that the impact of background noise reduces V.S.'s speech perception by over 50% when she is wearing hearing aids only. When an FM system is added, speech perception is raised to 84%. The audiologist takes an audiometer reading in the classroom showing the reverberation and signal-to-noise ratio is at unacceptable levels. The IEP team determines that the use of acoustical accommodations will narrow the gap to an appropriate level in order for V.S. to be provided with FAPE. Carpet is added to the room, as well as acoustically treated ceiling tiles.

For the student who is deaf or hard of hearing, the use of technology devices and the services needed to provide FAPE are vital components in a student's IEP.

Assistive Technology Services

Beyond the "devices" themselves, services must be provided to ensure the usability and

functionality of assistive technology devices. As stated above in the law, these services provide the framework for the student to receive meaningful benefit from such devices. Training and technical assistance to the student, school personnel, employers, and families is provided for under this section. In the provision of FAPE for a student the school district is required to ensure proper functioning of hearing aids. Section 300.303 states that "each public agency shall ensure that the hearing aids worn in school by children with hearing impairments, including deafness, are functioning properly" (Individuals with Disabilities Act of 1997, 20 U.S.C. 1412 (a)(2)).

Summary

The spirit and words of IDEA are based on values which ensure that all children with disabilities have available to them a free appropriate public education including special education and related services designed to meet their unique needs and prepare them for employment and independent living. Further, IDEA's directives serve to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting systemic-change activities, coordinated research and personnel preparation, coordinated technical assistance, dissemination, and support (Individuals with Disabilities Education Act of 1997, 20 U.S.C – 1400(d)(1)(A)(3)).

There is no reasonable or acceptable solution to educating students who are deaf and hard of hearing, except to demand high expectations of a communication-based system of education. A communication-based system will improve the educational experience of many students with disabilities, but for a student who is deaf or heard of hearing, it is imperative. It is time for parents, educators, and deaf or hard of hearing consumers to stand together and raise the bar of educational opportunity for deaf or hard of hearing students in the educational system. We must ensure that these students have access to a quality education through appropriate access to communication, as supported by the law to the extent that it currently exists.

But laws alone will not turn the tides in the wake of deaf and hard-of-hearing student underachievement. Higher expectations for performance must be realized through better teacher and parent training, more general education support, greater access to standards-based curriculum, and universally consistent application of best practices. Across the nation, there are examples of greatness. Students from all walks of life, using any and all versions of signed or spoken communication, are achieving academic and social success by all standards. Whatever combination of factors contribute to that achievement, at a foundational level, full and effective access to communication must be given the credit. Understanding what constitutes quality communication is the charge of every parent and professional working with deaf or hard of hearing students. Creating academic and social environments where deaf or hard of hearing kids can experience full access to communication is our duty. The message we send to all children who are deaf or hard of hearing must be that they deserve the right to understand and be understood, and to know that their own contribution is greatly valued by school and family.

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